

State of California
BOARD OF EQUALIZATION

SALES AND USE TAX REGULATIONS

Regulation 1702.6. SUSPENDED CORPORATIONS.

Reference: Sections 6066, Revenue and Taxation Code.

(a) GENERAL. A corporate officer or shareholder with control over operations or management of a closely held corporation during a time in which the corporation's powers, rights, and privileges are suspended or any responsible person who fails to pay or to cause to be paid any taxes due from a closely held corporation during a time in which the corporation's powers, rights, and privileges are suspended shall be personally liable under the circumstances set forth below for any unpaid sales or use tax liability of that suspended corporation incurred during the period of that suspension. The corporate officer, shareholder, or responsible person shall be liable for the unpaid tax, and interest and penalties on those taxes not so paid, regardless of the basis for the suspension of the corporation's powers, rights, and privileges.

Personal liability under this regulation applies only when the Board establishes that, during the period of suspension, the corporation:

- (1) Sold tangible personal property in the conduct of its business and collected sales tax reimbursement on the selling price (whether separately itemized or included in the selling price) and failed to remit such tax when due; or
- (2) Collect use tax and failed to report and pay the tax; or
- (3) Consumed tangible personal property and failed to pay the applicable tax to the seller or the Board.

(b) DEFINITION OF TERMS.

(1) **RESPONSIBLE PERSON.** For the purposes of this regulation, the term "responsible person" means any officer or shareholder who is charged with the responsibility for the filing of returns or the payment of tax or who has a duty to act for the closely held corporation in complying with any provision of the Sales and Use Tax Law, and who derives a direct financial benefit from the failure to pay the tax liability.

(2) **CLOSELY HELD.** For the purposes of this regulation, the term "closely held" corporation means one in which ownership is concentrated in one individual, one family, or a small number of individuals and the majority stockholders manage the business.

(3) **CONTROL OVER OPERATIONS OR MANAGEMENT.** For the purposes of this regulation, the term "control over operations and management" means the power to manage or affect day to day operations of the business. For the purposes of this regulation, it is rebuttably presumed that a corporate officer has control over operations and management of the closely held corporation.

(c) DETERMINATION AND COLLECTION. The Board shall determine and collect the liability established under this regulation in the manner provided in Chapter 5 (commencing with section 6451) and Chapter 6 (commencing with section 6701) of Part 1, Division 2, of the Revenue and Taxation Code.

(d) LIABILITY OF THE CORPORATION. A suspended corporation shall remain liable for the unpaid tax, interest, and penalties incurred during the period in which its corporate powers, rights, and privileges were suspended without regard to any personal liability determined under subdivision (a) of this regulation. Payments made pursuant to subdivision (a) shall be applied to the liability of the corporation.

History: Adopted July 26, 2000, effective October 18, 2000.

Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.